

It was emphasized that claim 29, the sole independent claim in the present application, was amended in our response of April 3, 2002. Claim 29 is directed to a stable microbicidal composition comprising:

a) a bactericidal N-formal selected from the group consisting of 3,3'-methylenebis (5-methyloxazolidine) and 2,2',2''-(hexahydro-1,3,5-triazine-1,3,5-triyl)tri-ethanol, wherein said N-formal is present in a concentration of from 40% to 90% by weight,

b) a fungicide selected from the group consisting of 2-octyl-2H-isothiazolin-3-one, benzisothiazolone, 5-chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one, wherein said fungicide is present in an amount of from 5 to 10% by weight, and

c) a stabilizer selected from the group consisting of 2-mercaptopyridine N-oxide, metal or ammonium salts of 2-mercaptopyridine N-oxide, metal salt complexes of 2-mercaptopyridine N-oxide, 2,2'-dithiobis(pyridine N-oxide), 2-mercaptobenzothiazole, 2-thiocyanomethyl-thiobenzothiazole, NaBrO<sub>3</sub> and mixtures thereof, wherein said stabilizer is present in an amount of 5 to 10% by weight.

It is respectfully submitted that the combination of cited publications fails to disclose or suggest the claimed composition. It is believed that one of ordinary skill in the

art would lack the requisite motivation and a reasonable expectation of success to combine the teachings of the cited publications. Moreover, it is respectfully submitted that, even if one of ordinary skill in the art were to combine these publications, one of ordinary skill in the art would not obtain the claimed composition.

LUTZ et al. teach a composition containing a preservative system. However, the preservative system fails to suggest the claimed combination of a bactericidal n-formal, a fungicide and a stabilizer.

The REEVE publication discloses that isothiazolones are effective mercaptopyridines and that they may be combined with several stabilizers. However, the REEVE publication fails to disclose or suggest that a bactericidal n-formal may be combined with the composition.

The DE 2337755 document discloses preservatives and disinfectants for technical solutions, emulsions, dispersions, and suspensions. The document discloses that n-formals or o-formals may act with mercaptopyridines as disinfectants. The DE 1952453 document discloses that solubilisers may be added in combination with isothhiazolones. However, both publications fail to suggest the claimed composition.

RAAD et al. is directed to the control of biofouling in pipes or aqueous systems via the use of compositions and method

that enclose the combination of a chelator with an antimicrobial agent.

GRIER et al. is directed to 1, 3, 5-S-hexahydrotrisubstituted triazines. GRIER et al. disclose that these triazines compounds may be used in microbial compositions. In particular, GRIER et al. teach that the compositions relate to metal working compositions.

ROTHENBURGER et al. disclose a formulation having preservative properties. The formulation utilized by ROTHENBURGER et al. is in a mixture of dialkanol-substituted dimethyhydantion, one or more isothiazolone compounds, a hydantion stabilizer and a hydroxyl solvent.

While the cited publications are directed to preservative compositions, it is respectfully submitted that the publications do not provide the necessary suggestion or a reasonable expectation of success that would motivate one skilled in the art to combine the cited publications in order to obtain the present invention. As the Examiner is aware, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or the knowledge generally available to one ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim limitations.

Beginning on page 2 in the present specification, it is noted that incompatibilities are frequently found between n-formals and fungicides. The incompatibilities are evident from the decrease in the active ingredient content. This results in an inadequate composition. The problems associated with this combination arise irrespective of whether the components are added to the industrial product simultaneously or separately. Thus, it is respectfully submitted that one of ordinary skill in the art would not haphazardly combine the extensive list of cited publications with this in mind. Moreover, it is noted that the cited publications fail to suggest a combination of components as set forth in the claimed invention, or even suggest that such a combination would be successful.

In fact, Applicants respectfully submit that even if one of ordinary skill in the art were to make the combination, the combination of cited publications fail to teach or suggest all of the claimed recitations. As noted above, the claimed invention is directed to a stable microbicidal composition which comprises a bactericidal n-formal, a fungicide and a stabilizer. It is respectfully submitted that the proposed combination of cited references fails to suggest the bactericidal n-formals of the claimed invention. Moreover, it is believed that the proposed combination of cited references fail to disclose the claimed combination. Thus, it is respectfully submitted that the

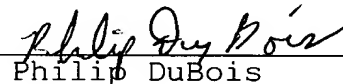
proposed combination of cited publications fails to render obvious the claimed invention.

In view of the present amendment and foregoing remarks, therefore, it is respectfully believed that this application is now in condition for allowance, that the claims 29-48, as presented. Allowance and passage to issue on that basis are accordingly respectfully requested.

Respectfully submitted,

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By



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November 4, 2002